

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CLAYBORN S. TURNER, ) No. C 05-4376 JSW (PR)  
Petitioner, )  
vs. )  
DAVID L. RUNNELS, Warden, ) **ORDER DENYING CERTIFICATE OF  
APPEALABILITY AND  
INSTRUCTIONS TO THE CLERK**  
Respondent. ) (Docket No. 15)  
\_\_\_\_\_  
)

Petitioner filed a pro se petition for a writ of habeas corpus challenging the constitutionality of his state conviction under 28 U.S.C. § 2254. Following briefing, this Court denied Petitioner’s application for a writ of habeas corpus on the merits. Petitioner has filed a notice of appeal and a motion for a certificate of appealability (“COA”) (docket no. 15).

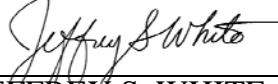
Upon the filing of a notice of appeal or a request for a COA, the district court shall indicate which specific issue or issues satisfy the standard for issuing a certificate, or state its reasons why a certificate should not be granted. *See United States v. Asrar*, 116 F.3d 1268, 1270 (9th Cir. 1997). (citing 28 U.S.C. § 2253(c)(3)). A judge shall grant a COA "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Petitioner has not shown that "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Accordingly, a certificate of

1 appealability is DENIED (docket no. 15).  
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3 The Clerk of Court shall forward this order, along with the case file, to the United  
4 States Court of Appeals for the Ninth Circuit. Petitioner may also seek a certificate of  
5 appealability from that court. *See Asrar*, 116 F.3d at 1270.

6 IT IS SO ORDERED.  
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8 DATED: October 20, 2008  
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10 JEFFREY S. WHITE  
11 United States District Judge  
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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

TURNER et al,

Case Number: CV05-04376 JSW

Plaintiff,

## **CERTIFICATE OF SERVICE**

V.

RUNNELS et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 20, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Clayborn Sidner Turner T-03271  
High Desert State Prison  
P.O. Box 3030  
Susanville, CA 96127-3030

Dated: October 20, 2008

*Jennifer Ottolini*  
Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk